

FOR THE RELIEF OF ROY DESMOND MOSER

OCTOBER 31, 1997.—Committed to the Committee of the Whole House and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2731]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2731) for the relief of Roy Desmond Moser, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

This bill provides that for the purpose of determining eligibility for relief under the Agreement Between the Government of the United States and the Government of the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, Roy Desmond Moser will be deemed to be a naturalized citizen of the United States as of August 8, 1942, the date he entered the U.S. Armed Forces.

BACKGROUND AND NEED FOR THE LEGISLATION

Roy Desmond Moser served in the Armed Forces of the United States during World War II. During his service he was captured by the Nazis and interned at the infamous concentration camp known as Buchenwald.

Mr. Moser was held as a prisoner of war at Stalag 9B, one of the most brutal of the Nazi POW camps. From there, he and 350 of his American comrades were transported to Berga, a sub-camp of Buchenwald. There they were confined in unhealthy, degrading and inhumane conditions, subsisting on a starvation diet, subjected to

forced labor, and brutalized by camp guards. After only six weeks at Berga, 24 had perished from starvation, overwork, disease and physical abuse. In early April 1945, the remaining prisoners were driven on a death march away from the advancing Allied front. Of the 280 American POWs who survived, most weighed less than 90 pounds when they were finally liberated.

Mr. Moser was born in Canada and immigrated to the United States with his parents as an infant. Mr. Moser never completed his naturalization prior to going to war. He survived the war, came to the United States as a war hero, and obtained his American citizenship.

Fifty years later, when he applied for compensation under a United States and Germany agreement as an American national who was a victim of Nazi persecution, he was informed that he was not eligible because he was not a U.S. citizen at the time of the persecution.

According to the Foreign Claims Settlement Commission, Mr. Moser is one of only two individuals that fall into this category. In the formal denial, the Foreign Claims Settlement Commission stated that they were bound by the international agreement and could not allow this otherwise deserving individual inclusion in the reparation group.

HEARINGS

The Committee's Subcommittee on Immigration and Claims held no hearings on H.R. 2731.

COMMITTEE CONSIDERATION

On October 29, 1997, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 2731, by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to

the bill, H.R. 2731, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 30, 1997.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2731, a bill for the relief of Roy Desmond Moser.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2731—A bill for the relief of Roy Desmond Moser

CBO estimates that enacting this legislation would not affect the federal budget. Because H.R. 2731 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. This bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments.

H.R. 2731 would classify Roy Desmond Moser as a naturalized citizen of the United States as of August 8, 1942. This action would make him eligible for reparations from Germany relating to his imprisonment during World War II. According to the Foreign Claims Settlement Commission, enacting this legislation would not affect the commission's operation.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article 1, Section 8, Clause 10 of the Constitution.

AGENCY VIEWS

The comments of the Immigration and Naturalization Service on H.R. 2731 are as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, October 30, 1997.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Per your request for a report relative to H.R. 2731, for the relief of Roy Desmond Moser.

The bill would make Mr. Moser eligible for compensation by deeming him a naturalized U.S. citizen as of the date he began his military service for the purposes of the Foreign Claims Settlement Act.

In lieu of a report, I am enclosing the attached memorandum that was provided by the Immigration and Naturalization Service, Office of Naturalization Operations to the Foreign Claims Settlement Commission concerning the beneficiary. I am hopeful that the summary will be sufficient.

Sincerely,

ALLEN ERENBAUM,
Acting Director, Congressional Relations.

MEMORANDUM

Subject: FCSC Holocaust Survivors Claims Program
Claimant HS-147: Roy Desmond Moser.

Date: August 18, 1997.

To: Foreign Claims Settlement Commission (FCSC).

From: Office of Naturalization Operations (INS).

Pursuant to the Agreement Between the U.S. and the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, September 19, 1995, U.S.-Germany, art. 1-5, KAV No. 4453, (1995 WL 723998 (Treaty)), certain United States survivors of the Holocaust are eligible for compensation if they establish United States citizenship at the time of persecution and internment in a concentration camp(s) or under comparable conditions. See also 61 FR 30638 (June 17, 1996); 62 FR 5486 (February 5, 1997). Your office has indicated that the relevant period of United States citizenship for claimants under the Holocaust Survivors Claims program is 1933 to June 1945.

We have reviewed Roy Desmond Moser's documentation and his parents' Service files, C6-548-526 & C7-344-332. From this review, it appears that Mr. Moser WAS NOT a United States citizen during the relevant period.

Service records indicate that Roy Desmond Moser was born on February 17, 1923 in Halifax, Nova Scotia, Canada. His father was Roland Richard Moser, born on February 29, 1896, in Moser River, Nova Scotia, Canada. The record contains conflicting dates for Roland Moser's first entry into the United States with the earliest claimed date of September 1922, but a Form 1-404, Certificate of Admission of Alien, reflecting an admission date of October

23, 1922. Roland Moser applied for naturalization in 1954, and was naturalized on June 14, 1954, in Dorchester, Massachusetts. Roland Moser's record contains no other documentation reflecting entries into, or residence in, the United States prior to 1923. Further, there is no indication that Roland Moser was a United States citizen at birth or acquired citizenship prior to his naturalization in 1954.

Mr. Moser's mother was Alice Louisa Moser, Born on May 6, 1892, in Burlingham, England. Alice Moser married Roland Moser on October 12, 1917, in Liverpool, England. The record reflects that Alice Moser entered the United States on September 9, 1923. She was naturalized on December 15, 1944, in Dorchester, Massachusetts. There is no indication that Alice Moser was a United States citizen at birth or acquired United States citizenship prior to 1994. In addition, there is no indication that Alice Moser resided in the United States prior to Mr. Moser's birth.

Mr. Moser's file indicates that he applied for naturalization under section 701 of the Nationality Act of 1940, 54 Stat. 1137, based on his military service in the United States Army from August 8, 1942 to October 23, 1945. Mr. Moser was naturalized on April 1, 1946, in Dorchester, Massachusetts. Service records also indicate that Mr. Moser married Thelma Moser, a United States citizen, on October 26, 1945.

As Mr. Moser was born in 1923, section 1993 of the Revised Statutes (R.S. 1993), was the applicable law at the time of his birth. Section 1993 provided that: "Any child heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose father never resided in the United States."

Based on the conditions for citizenship specified under R.S. 1993, it appears Mr. Moser was not a citizen at birth during the specified period (1933 to 1945) because there is no evidence that his father resided in the United States prior to Louis' birth in 1936. Similarly, there is no evidence that Mr. Moser's mother was a United States citizen prior to 1936 or had any residence in the United States prior to 1936 that would permit her to transmit citizenship. Further, though Mr. Moser's mother naturalized in 1945, Mr. Moser did not acquire citizenship upon her naturalization.

Under section 314 of the Nationality Act of 1940, alien children born outside of the United States to alien parents could automatically acquire citizenship if: (1) both parents naturalized; of (2) one parent naturalized, if the other was deceased or the parents were divorced and the child was in the legal custody of the naturalizing parent; and (3) the child was under the age of eighteen (18) and residing permanently in the United States at the time of naturaliza-

tion or before 18 years of age. *See* Act of October 14, 1940, 54 Stat. 1137, formerly 8 U.S.C. § 907. Mr. Moser did not meet any of these conditions as he was over the age of minority at the time of both his mother's and father's naturalization. Thus, there is no indication that Mr. Moser was a citizen, by birth or naturalization, during the specified period.

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